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1623

PATENT
Attorney Docket 054800-5014

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Roderic Dale et al.**)
Application No. **09/847,654**) Group Art Unit: **1623**
Filed: **May 3, 2001**) Examiner: **G. Krishnan**
For: **Antimicrobial Compounds and Methods for**)
 Their Use)

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

TRANSMITTAL FORM

1. Transmitted herewith is a Response to Second Restriction Requirement responding to the Office Action dated June 17, 2003 (Paper No. 10).
2. Extension of Time: The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136(a) apply. Applicants petition for a five-month extension of time from July 17, 2003 to December 17, 2003, the fee for a small entity which is **\$1,005.00** as set out in 37 C.F.R. 1.17(a). The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.
3. Fee Calculation (37 C.F.R. 1.16)

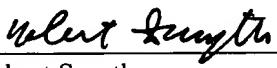
CLAIMS AS AMENDED						
	Remaining		Previously Paid	Extra	Rate	Total Fees
Total Claims	36	minus	36	0	\$18 each=	0.00
Independent Claims	7	minus	7	0	\$86 each=	0.00
First presentation of Multiple dependent claim					\$290.00	0.00
					Sub-total =	0.00
					Reduction by ½ for filing by a small entity	0.00
					Total Fee =	\$0.00

4. Fee Payment: The Commissioner is hereby authorized to charge **\$1,005.00** to Deposit Account No. 50-0310 for payment of the five-month extension of time fee.
5. Constructive Petition: Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any

required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **December 17, 2003**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP



Robert Smyth
Registration No. 50,801



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RESPONSE TO SECOND RESTRICTION REQUIREMENT

In response to the restriction requirement in the Office Action dated June 17, 2003 (Paper No. 10) Applicants hereby elect to prosecute the claims of **Group I** (claims 1 to 15, 31 and 32) drawn to antimicrobial compositions comprising protonated compounds comprising the structure X-Y-Z, with traverse. This response is being filed with a petition for a five-month extension of time extending the period for response from July 17, 2003 to December 17, 2003 and authorization to charge the required fee to Deposit Account No. 50-0310. With regard to the traversal, Applicants submit that the method of claim 30 and the compositions of claims 1 to 15, 31 and 32 constitute a single invention because the haloperoxide containing compositions disclosed in U.S. patent 5,510,104 cannot be used to practice the method of claim 30. Specifically, the disclosed haloperoxide compositions in the cited reference require co-administration (see abstract) of a halide compound (e.g., chloride or bromide) and as such, these haloperoxide compositions cannot be used alone to practice the as claimed method of claim 30.

Applicants therefore request rejoinder of the method of claim 30 with the claims in Group I.

Except for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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